

ARKANSAS SUPREME COURT

No. CR 06-1241

CARL EDWARD WILLIS
Appellant

v.

STATE OF ARKANSAS
Appellee

Opinion Delivered May 10, 2007

PRO SE MOTION TO FILE BELATED
PRO SE PETITION FOR REVIEW
[CIRCUIT COURT OF SEBASTIAN
COUNTY, FT. SMITH DISTRICT, CR
2004-1370, HON. MICHAEL
FITZHUGH, JUDGE]

MOTION DENIED.

PER CURIAM

Appellant Carl Edward Willis was found guilty by a jury of second-degree sexual assault of a child and was sentenced to a term of 144 months' imprisonment. The court of appeals affirmed. *Willis v. State*, CACR 05-1111 (Ark. App. Aug. 30, 2006). Now before us is appellant's pro se motion to file a belated petition for review in this court.

Appellant was represented by counsel on appeal. An appellant is not entitled to accept appointment of counsel to represent him and also proceed pro se. *Hamilton v. State*, 348 Ark. 532, 74 S.W.3d 615 (2002). This court will not permit an appellant to compete with his attorney to be heard in an appeal. *Franklin v. State*, 327 Ark. 537, 939 S.W.2d 836 (1997) (per curiam); *see also Monts v. Lessenberry*, 305 Ark. 202, 806 S.W.2d 379 (1991) (per curiam). As we explained in *Monts*, counsel possesses the superior ability to examine the record, research the law and marshal arguments in the defendant's behalf. With the exception of certain fundamental decisions, it is the attorney's duty to take professional responsibility for the conduct of the appeal. *Monts*, 305 Ark. at 206, 806 S.W.2d

at 381-382. Further, the right to counsel does not provide the right for an appellant to substitute his or her judgment for counsel's professional judgment. *See Hadley v. State*, 322 Ark. 472, 910 S.W.2d 675 (1995). Here, counsel for appellant did not elect to file a petition for review in this court before the mandate of the court of appeals was issued. We find no good cause to allow appellant to proceed with such a petition pro se after the mandate has issued.

Motion denied.